IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 473 OF 2005

GANAPATI DNYANU JAGADALE,REP.BY HIS POWER OF ATTORNEY ....Petitioner

Versus

RAJARAM RAU PATIL AND 2 ORS., ...Respondents

Mr. P. A. Kholkar,Advocate for the Petitioner.
Mr. D. Pangam, Advocate For Respondent No. 1 & 2
Mr. G. Shirodkar, Addl. Govt. Advocate for R.3.

Coram:- A. P. LAVANDE, J.

Date:- 9th March, 2006

P.C.:

Heard Mr. Kholkar for the petitioner, Mr. Pangam for the Respondents No.1 and 2 and Mr. Shirodkar for the respondent No.3.

2. By this petition the petitioner who is the original plaintiff in Special Civil Suit No.123/04 pending before the Adhoc Addl. District Judge, Fast Track Court, South Goa, Margao, takes exception to the Order dated 28.10.05 whereby the trial Court partly rejected the amendment sought by the petitioner/plaintiff in the Suit for declaration and recovery of money.

3. The petitioner, in the plaint filed by him, claimed to be co-cultivator along with the respondents No.1 and 2. By proposed para 4A which has been disallowed, the petitioner claimed that the cultivation of the suit property was within the knowledge of the original landlords Marcel Braganza and his wife and as such the plaintiff was the co-tenant of the suit property along with the respondents No.1 and 2. Prior to passing of the impugned order, the trial Court had already deleted the issue of tenancy which was framed on the ground that in the plaint the petitioner

had not given details of the tenancy, so as to warrant framing of the issue of tenancy. That being the position, in my opinion, no fault can be found with the impugned order. The Trial Court was absolutely justified in disallowing the amendment of the plaint by incorporating para 4A in the plaint. I do not find any jurisdictional error or error apparent on the face of the record to warrant interference in exercise of writ jurisdiction against the impugned order.

4. In the result, therefore, I do not find any merit in this writ petition and therefore same is rejected. Needless to mention that the stay granted by this Court by Order dated 12th January, 2006 stands vacated.

A. P. LAVANDE, J.

sl.